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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/017,050 | 12/13/2001 | Sudhindra Pundaleeka Herle | SAMS01-00184 | 6585 |

7590

06/10/2004

Docket Clerk
P.O. Box 800889
Dallas, TX 75380

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| EXAMINER |
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NGUYEN, HUY D

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| ART UNIT | PAPER NUMBER |
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2681

DATE MAILED: 06/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/017,050

Applicant(s)

HERLE ET AL.

Examiner

Huy D Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>4</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what "resource-constrained" in claims 1 and 15 means. The term " resource-constrained " is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

3. Claim 1 recites the limitation "the wireless communications device" in lines 7-8 and 11. There is insufficient antecedent basis for this limitation in the claim.

Claim 15 recites the limitation "the wireless communications device" in lines 5 and 10. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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5. Claims 1-20 are rejected under 35 U.S.C. 102(a) as being anticipated by Kikinis (U.S. Patent No. 6,243,596).

Regarding claims 1, 6-8, 13-15, 20, Kikinis teaches that for use in a communications system, an apparatus for wireless software download to a wireless communications device capable of Internet access comprising: an auxiliary device (e.g. battery pack adapter 100) including sufficient storage for holding software to be downloaded (col. 18, lines 38-60); and a connection between the wireless communications device and the auxiliary device (col. 15, lines 34-38), wherein the software to be downloaded is retrieved from a remote server through a wireless connection for the wireless communications device to the auxiliary device and installed from the auxiliary device onto the wireless communications device (col. 15, lines 12-13).

Regarding claims 2, 9, 16, Kikinis teaches the apparatus according to claim 1, wherein the auxiliary device lacks a connection to the remote server independent of the connection between the wireless communications device and the auxiliary device (col. 15, line 37).

Regarding claims 3, 10, 17, Kikinis teaches the apparatus according to claim 1, wherein the wireless communications device lacks sufficient storage to hold the software to be downloaded in addition to existing software within the wireless communications device (col. 15, line 38-56).

Regarding claims 4, 11, 18, Kikinis teaches the apparatus according to claim 1, wherein the software to be downloaded is retrieved by the auxiliary device from the remote server through an Internet connection provided by the wireless communications device (col. 15, lines 11-13).

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Regarding claims 5, 12, 19, Kikinis teaches the apparatus according to claim 1, wherein the wireless communications device is a mobile telephone and the auxiliary device is a personal digital assistant (col. 15, lines 10-17).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Kato et al. (U.S. Patent No. 6,088,730).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy D Nguyen whose telephone number is 703-305-3283. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Erika A Gary can be reached on 703-308-0123. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HN


ERIKA GARY
PATENT EXAMINER